



BC Notice 2013/09

**Notice and Request for Comment – Proposed Amendments to
*Conditions of Registration for Investment Dealers with a BC Office that
Trade in the U.S. Over-the-Counter Markets***

The BCSC is publishing for comment amendments to the registration conditions for investment dealers in British Columbia that trade in U.S. over-the-counter (OTC) markets. The proposed amendments prohibit investment dealers from engaging in account activity with a financial institution's office if the office is in a jurisdiction outside Canada or the United States where the securities regulator in that jurisdiction is not a signatory to the IOSCO Multilateral Memorandum of Understanding (MMOU).

BC investment dealers' OTC trading has been subject to the *Conditions of Registration – Investment Dealers with a BC Office that Trade in the U.S. Over-the-Counter Markets* (the conditions) since June 2008. We imposed the conditions to curb abusive trading in U.S. OTC markets.

The amendments further decrease opportunities for abusive trading and address impediments to our investigative efforts. They prevent investment dealers from trading with financial institutions in jurisdictions that might not provide timely, or any, information to securities regulators investigating abusive trading. When a jurisdiction provides anonymity to a person controlling or directing abusive market practices, the Commission cannot effectively enforce its securities laws. This undermines public confidence in our markets.

To minimize the impact on investment dealers, the prohibition is limited to financial institutions' offices in jurisdictions that have not signed the IOSCO MMOU. IOSCO MMOU signatories are committed to sharing information with its members. This cooperation supports and assists international enforcement of laws against securities misconduct and reduces the risk that the Commission's enforcement efforts will be frustrated.

Also, reducing the likelihood of abusive practices occurring through British Columbia investment dealers will benefit both the dealer directly and other dealers by association.

Which foreign financial institutions are affected?

The prohibition applies to any financial institution's office in a jurisdiction, outside Canada or the United States, where the securities regulatory authority in that jurisdiction is not a signatory to the IOSCO MMOU.

The amendments define financial institution. The proposed definition includes banks, insurers, investment funds, pension funds, dealers, and advisers and similar entities. The definition also captures affiliates.

What activity triggers the prohibition?

The amendments prohibit account activity in OTC issuer securities from a financial institution's office in certain circumstances. The amendments define "account activity" to include a deposit, transfer, or trade. The prohibition applies to a financial institution's account activity as either principal or agent.

The amendments do not change the definition of "OTC issuer". Consequently, the prohibition will apply to only those securities that the conditions apply to today.

The proposal allows liquidating trades during the prohibition's first 90 days.

Anticipated impact

The prohibition bans high-risk business with financial institutions trading in the U.S. OTC markets from jurisdictions where the securities regulatory authority has not signed the IOSCO MMOU. Only those dealers that conduct this business are affected. It is imperative that the Commission be able to obtain information when investigating potential abusive trading in U.S. OTC markets. In our view, the burden on affected dealers is outweighed by the benefit to the integrity and reputation of British Columbia's capital markets by being able to take timely and effective enforcement action.

Proposed expiry of amended conditions

The amended conditions will be in effect until December 31, 2014. During that time, we will assess their impact.

Opportunity to be heard

Dealers will have an opportunity to be heard before the amended conditions are imposed on them.

Earlier amendments published for comment in August 2012

We cannot proceed with the additional electronic reporting in the 2012 proposal until we are ready, technologically, to receive it. We will communicate implementation timing in advance so that investment dealers can prepare.

We thank all those who responded to the survey conducted in conjunction with the 2012 proposal for sharing their experiences and views with us. We considered those responses in our work on the 2012 proposal.

Request for comment

We welcome your comments about the proposed changes to the conditions. Please submit your comments in writing on or before December 30, 2013.

Please address your comments to the Executive Director. Deliver your comments and refer your questions to:

Meg Tassie
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Capital Markets Regulation
British Columbia Securities Commission
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We will not keep submissions confidential.

October 28, 2013

Brenda M. Leong
Chair

Ref: *Conditions of Registration – Investment Dealers with a BC Office that Trade in the U.S. Over-the-Counter Markets*

This Notice may refer to other documents. These documents can be found at the B.C. Securities Commission public website at www.bcsc.bc.ca in the section Securities Law & Policy: Policies & Instruments.